

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HENRY EDWARD DIAZ, II,

Plaintiff,

v.

CDCR, et al.,

Defendants.

No. 1:23-cv-1378 JLT SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING THE
ACTION, AND DIRECTING THE CLERK OF
COURT TO CLOSE THE CASE**

(Doc. 15)

Henry Edward Diaz, II, initiated this action seeking to hold the CDCR and individual officers liable for violations of his civil rights at C-SATF State Prison. (*See generally* Doc. 1.) The magistrate judge screened Plaintiff's complaint pursuant to 28 U.S.C. § 1915A(a) and found Plaintiff failed to state a cognizable claim. (Doc. 12 at 3-9.) The Court granted Plaintiff leave to amend his complaint and informed him that if he failed to do so, the magistrate judge would recommend dismissal. (*Id.* at 10-11.) After Plaintiff failed to file an amended complaint, the magistrate judge issued an order Plaintiff to show cause why the action should not be dismissed for failure to prosecute. (Doc. 13.) Plaintiff did not respond to the Court's order.

The magistrate judge issued Findings and Recommendations, reiterating the prior findings that Plaintiff failed to state a claim. (Doc. 15 at 4-10.) In addition, the magistrate judge found Plaintiff failed to comply with the Court's orders and failed to prosecute the case. (*Id.* at 10.) Therefore, the magistrate judge recommended the "action be dismissed for Plaintiff's failure to

1 comply with a court orders, failure to prosecute, and failure to state a cognizable claim for relief.”
2 (*Id.* at 12-13.) The Court served the Findings and Recommendations on Plaintiff and notified him
3 that any objections were due within 14 days. (*Id.* at 13.) The Court advised him the “failure to
4 file objections within the specified time may result in the waiver of rights on appeal.” (*Id.*, citing
5 *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Plaintiff did not file objections, and
6 the time to do so has passed.

7 According to 28 U.S.C. § 636(b)(1)(C), this Court performed a *de novo* review of this
8 case. Having carefully reviewed the matter, the Court concludes the Findings and
9 Recommendations are supported by the record and proper analysis. Thus, the Court **ORDERS**:

- 10 1. The Findings and Recommendations issued on January 26, 2023 (Doc. 15) are
11 **ADOPTED** in full.
- 12 2. This action is **DISMISSED** with prejudice.
- 13 3. The Clerk of Court is directed to close this case.

14
15 IT IS SO ORDERED.

16 Dated: **February 22, 2024**


UNITED STATES DISTRICT JUDGE